

Application No. 09/044,040
Amendment dated October 13, 2003
Response to Office Action of August 18, 2003

REMARKS

As an initial matter, Applicant expresses appreciation to the examiner for the personal interview conducted on October 3, 2003, and the guidance provided toward allowance of the claims. During the interview, the pending independent claims, the cited references and the proposed amendments were discussed and a sample of Applicant's multimedia receptacle was examined.

Claims 25-56 are presented for reconsideration by the Examiner. The Examiner's objections and rejections will each be addressed below. Based upon the amendments to the claims and the discussion contained below, Applicant believes that each of the claims should be allowable over the prior art.

I. REJECTIONS OF CLAIMS UNDER 35 U.S.C. § 102

According to the Office Action, claims 36-41, 44, 48, 51 and 53-56 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Gutenson et al, U.S. Patent No. 5,043,531 (hereinafter "Gutenson"). Applicant believes based upon the amendments to the claims and the arguments set forth below, that these claims should now be allowable over Gutenson.

First, regarding claims 36-40, claim 36 has been amended, as indicated above, to incorporate a dissemination means. Since the

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new element is expressed as means-plus-function, 35 U.S.C. § 112, sixth paragraph, is invoked. This section states:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

Under applicable authority, an analysis of § 112, sixth paragraph consists of: 1) defining the function to be performed by reference to the claim language and the specification, Rite-Hite Corp. v. Kelley Co., Inc., 819 F.2d 1120, 1123; 2 U.S.P.Q.2d 1915, 1917 (Fed Cir. 1987); 2) identifying all structure disclosed in the specification that performs that defined function, Sage Products, Inc. v. Devon Industries, Inc., 126 F.3d 1420, 1428, 44 U.S.P.Q.2d 1103, 1110 (Fed Cir. 1997); and then 3) determining whether the alleged prior art "has the same or an equivalent structure as the structure described in the specification corresponding to the claim's means." Alpex Computer Corp. v. Nintendo Co., 102 F.3d 1214, 1222; 40 U.S.P.Q.2d 1667, 1673 (Fed. Cir. 1996).

Applicant submits that when the above recited analysis is applied, as it must be, to the recited dissemination means as claimed by Applicant in amended claim 36, Gutenson does not anticipate the present invention.

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First, according to the first prong of the above recited analysis, it is clear that the function to be performed by the dissemination means is for selectively conveying the information signals to the coaxial cable, optical fiber, and twisted pair cable providing flexibility and adaptability not previously available in the art.

According to the second prong, the structure disclosed in the specification for performing the defined function must be identified. Accordingly, the specification of the present application discloses a number of illustrative embodiments that each correspond to the defined function, and said embodiments are not anticipated by Gutenson or any of the other prior art. FIGS. 2A, 2B, and 3, 4, 4A, 4B, and 4C all illustrate structures of different illustrative embodiments that function as a dissemination means. The related portions of the application describing said figures and their features are hereby incorporated by reference into this response and will not be reproduced here in their entirety except as set forth below.

FIGS. 2A and 2B portray one illustrative embodiment of a dissemination means. FIGS. 2A and 2B shows at least one set of connectors mounted on a panel. Each of the sets of connectors comprises at least one coaxial connector, at least one twisted pair

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connector, and at least one fiber optic connector. These connectors may be commercially available devices that snap into apertures formed in a panel. (Application, page 21, lines 1-5). Furthermore, this illustrative embodiment comprises a signal processor which can be "devised to combine, modulate, and condition (using digital or analog techniques) any signals which enter" the distribution box. (Application, page 19, lines 16-21). In addition, the signal processor may "be devised to route signals using passive signal splitting techniques." (Application, page 19, lines 21-23). The signal processor may also "gather and disseminate information signals generated" within the structure. (Application, page 20, lines 4-6).

FIGS. 4 and 4A portray the illustrative embodiment in FIGS. 2A and 2B with exemplary interconnections. Additional wire restraining devices and a terminal strip are optionally present (reference numerals 174 and 176), which constitute additional illustrative structures that may, but are not required, to be present in a dissemination means.

FIG. 3 shows another illustrative embodiment of a dissemination means. FIG. 3 shows at least one set of connectors mounted on a front panel of a housing. Each of the sets of connectors comprises at least one coaxial connector, at least one

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twisted pair connector, and at least one fiber optic connector. Again, this embodiment also comprises a signal processor with the same features as described above. In addition, also represented in FIG. 3 is an optional telephone system control box for containing a telephone control system.

FIG. 4B illustrates the back side view of the illustrative embodiment in FIG. 3. This figure shows optional NEMA compatible receptacles arranged as a power strip. Also present is an optional mud ring. The mud ring "functions to allow passage of the plurality of cables making up the buses." (Application, page 36, lines 21-23). It is not necessary that the receptacles and mud ring be present in every embodiment but are illustrative of one embodiment which is useful in applications which can be selected by those skilled in the art.

FIG. 4C shows still another illustrative embodiment of a dissemination means. This embodiment is configured to be mounted into a wall cavity between wall studs. Again, FIG. 4C shows at least one set of connectors mounted on a front panel of a housing. Each of the sets of connectors comprises at least one coaxial connector, at least one twisted pair connector, and at least one fiber optic connector. A cover may be provided which opens and closes over the panel. The cover may be domed shaped.

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Having identified various structures disclosed in the specification for performing the defined function, we move onto the third prong of the above analysis, which is, to determine whether the alleged prior art discloses the same or equivalent structure as described above. Applicant believes that the underlying structure, or its equivalent, of the dissemination means as claimed is not taught by Gutenson.

In particular, neither Gutenson, nor any of the art now of record in this application, teaches a coaxial connector, a twisted pair connector and a fiber optic connector mounted on a single panel of a distribution box. Simply put, Gutenson does not disclose any structure or specific location whatsoever suggesting how or where these connections are made at the central location. It appears from FIG. 2 of Gutenson that these connections are internal and may use other connection types as is known in the art, such as hard wiring or terminal boards.

Further, Gutenson does not disclose or suggest the use of an optional telephone system control box for containing a telephone control system, NEMA compatible receptacles arranged as a power strip, terminal strips, wire restraining devices or a mud ring as is present in one embodiment of the present invention. Moreover, Gutenson does not disclose or suggest the use of a box mounted into

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a wall cavity as is present in another embodiment of the present invention. At a minimum, these distinct embodiments should render the pertinent claims to be allowable. Therefore, under means-plus-function analysis, claims 36-40 should be allowable and the same is respectfully requested since Gutenson does not teach or suggest any of the structure associated with any of the various embodiments of the present invention.

Next, in regards to the rejection of claim 41 under § 102, it should be noted that none of the remarks presented herein are intended to impose or effectuate any narrowing of the scope of the claims, rather the remarks are simply intended to remind the Patent Office of the original scope of the claims that already existed at the time of filing. The rejections made in the Office Action appear to be directed to claims that simply do not presently exist in the application. Accordingly, the remarks presented herein simply reiterate the already existing scope of the claims as constituted at the time the claims were filed. The claims as originally filed should be construed in the future, under applicable authority, in the very same manner that they would have been construed if the remarks below had never been made. Additionally, the remarks made herein are not necessary to establish patentability because the claims as originally filed have

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novel, distinct features, upon which patentability rests, which claims are unanticipated and nonobvious.

The nature and gist of the reiterations below, all of which are redundant and duplicative of the original specification and 35 U.S.C. § 112, sixth paragraph, is that the claims as originally filed already are of a scope that does not ensnare the prior art relied upon in the Office Action. Since the amendments made to the pertinent independent claim are for clarification of the subject matter being claimed, and such amendments are not needed to distinguish over the art of record, none of the points made herein operate to change the scope of the claim as originally presented and nothing in response operates as an estoppel. Accordingly, this response and all remarks made herein are not made to overcome the relied upon art, but rather to explain why the art does not apply.

Applicant submits that claim 41 rejected under § 102(b) is not anticipated by Gutenson. The Office Action on page 4 specifically states that in regards to the dissemination means as recited in claim 41, that "Gutenson discloses splitter 80 within central location . . . for selectively conveying any electronic information present on the first electronic circuit to and of the first, second or third bussses." Applicant submits that Gutenson does not anticipate the invention as claimed because, at a minimum, Gutenson

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does not disclose a dissemination means as has been originally claimed by Applicant and therefore each and every limitation is not present in the Gutenson reference. Other aspects of the present invention, not expressly referred to herein, may also be unanticipated by Gutenson.

Applicant's dissemination means, as recited in the claims, is written in means-plus-function language and invokes § 112, sixth paragraph. The three part test under § 112, sixth paragraph, as stated above requires that: 1) defining the function to be performed by reference to the claim language and the specification, Rite-Hite Corp., 819 F.2d at 1123; 2 U.S.P.Q.2d at 1917; 2) identifying all structure disclosed in the specification that performs that defined function, Sage Products, 126 F.3d at 1428, 44 U.S.P.Q.2d at 1110; and then 3) determining whether the alleged prior art "has the same or an equivalent structure as the structure described in the specification corresponding to the claim's means." Alpex Computer Corp., 102 F.3d at 1222; 40 U.S.P.Q.2d at 1673. Applicant submits that when the above analysis is applied, as it must be, to a dissemination means as originally claimed, Gutenson does not anticipate the invention.

According to the first prong of the above analysis, it is clear that the function to be performed by the dissemination means

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is for "selectively" conveying any electronic information present on the first electronic circuit to any of the first, second, or third buses.

According to the second prong, all structure disclosed in the specification for performing that defined function must be identified. Accordingly, the specification of the present invention discloses at least one illustrative embodiment that corresponds to the defined function, and said embodiment(s) is not anticipated by Gutenson. As discussed previously, FIGS. 2A, 2B, 3, 4, 4A, 4B, and 4C illustrate the various structures associated with the dissemination means. Said discussion is hereby incorporated here by reference and will not be repeated.

The third prong of the above analysis is to determine whether the alleged prior art has the same or the equivalent structure of the claimed structure. Applicant submits that the structure disclosed in the Gutenson reference does not contain structure equivalent to the structure disclosed in support of the claims in the originally filed application of the present invention.

First, a splitter as disclosed in Gutenson and used by the Examiner to support the rejection of claim 41, cannot selectively distribute a signal and therefore cannot anticipate the claimed dissemination means. As is known in the art, a splitter is

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typically a device having no circuitry to selectively distribute a signal, but instead splits an incoming signal to all connected outlets. Gutenson makes no suggestion that the splitter disclosed therein has this functionality or that it would be desired to have this functionality. Gutenson does state that the splitter "connects the upstream and downstream coaxil cables from segment 52A to each of the segments that are distributed to various locations in the home." (Column 5, lines 35-37). This is consistent with the operation of a splitter as is known in the art. Since the splitter does not have the same structure or function as the claimed dissemination means, there can be no anticipation on this element.

Furthermore, Gutenson fails to disclose a set of connectors mounted together on a panel which also constitutes part of the claimed dissemination means. As discussed previously, Gutenson makes no mention of how or in what manner the connections are made at the central location. For these reasons, claim 41 should be allowable over Gutenson. Likewise, since claim 44, which was also rejected under § 102(b), is dependent upon claim 41, should also be allowable.

In regards to the rejection of claim 48, claim 48 has been amended, see above, to include a "distribution panel disposed at

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the first location, said distribution panel having at least one CAT5 connector, at least one optical fiber cable connector, and at least one RG6 coaxial cable connector mounted thereon" As discussed previously, neither Gutenson nor the remaining references now of record in this application disclose or suggest how or in what manner or location the cables are attached at the central location. Specifically, there is no suggestion in the art cited in the Office Action of a distribution panel having a CAT 5 connector, an optical fiber connector, and an RG6 connector disposed thereon. Therefore, claim 48 should now be allowable. In addition, since claims 51 and 53-56 are dependent upon claim 51, they should also be allowable.

II. REJECTIONS OF CLAIMS UNDER 35 U.S.C. § 103

Regarding the rejection of the claims under 35 U.S.C. § 103, Applicant's counsel has carefully studied the reasoning for the rejections provided in the Office Action, together with the two (2) references relied upon. Applicant respectfully submits that certain aspects of the invention are unanticipated, nonobvious and thus claims directed thereto are allowable.

First, in regards to claim 25, the Office Action fails to establish a *prima facie* case for obviousness. To establish a *prima*

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facie case for obviousness three following basic criteria must be met.

First, there must be some suggestion or motivation to modify the reference, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

M.P.E.P § 2143.

In regards to the first criteria, Gutenson clearly teaches away from the invention in claim 25 since it would have been pointless to modify Gutenson to include a first, second and third set of connectors at the central location. Gutenson has only one bundled cable leading from a central location to a splitter and therefore three sets of connectors at the central location would render Gutenson unsatisfactory for its intended purpose. In addition, the present invention utilizes a topology which requires a plurality of connectors at the central location whereas Gutenson utilizes a topology which requires only one connection at the central location. Further, the connection taught by Gutenson may be a hard wire connection that does not even utilize the connectors recited in the claims.

In regards to the third criteria, all of the claim limitations are not taught or suggested by Gutenson and therefore the rejection

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cannot stand. See M.P.E.P § 2143.03. In particular, Gutenson does not teach or suggest a support means having a plurality of sets of connectors connected thereon. Several different illustrative embodiments of a support means are shown in FIGs. 2A, 2B, and 3, 4, 4A, 4B, and 4C of the present application. A close examination of the service center (reference no. 32) in FIG. 2 of Gutenson reveals that all of the systems appear to be separate (note the plurality of boxes) and are not integrated into a single housing like the support means recited in some of the claims for the present invention. In other words, Gutenson appears to actually teach away from using a single distribution panel, e.g. the support means, for mounting sets of connectors, each set having a coaxial connector, a twisted pair connector, and a fiber optic connector. Regardless, Gutenson makes no mention of any panel or manner in which the bundled cable is connected to the service center, and therefore, a *prima facie* case cannot be supported because all of the claimed elements are not taught or suggested in Gutenson. Applicant submits that the invention defined in the claims provides advantages not known previously in the art which accrue with having a single distribution panel with coaxial, twisted pair and fiber optic connectors mounted thereon.

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Regarding the rejection of claim 45, Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness. In particular, the cited reference Johnston, U.S. patent no. 6,017,238, (hereinafter "Johnston") was filed on June 9, 1998, almost six (6) months after the filing of the present application and therefore does not qualify as prior art. See M.P.E.P § 2141.01.

Even if Johnston was a valid reference, the Examiner still has not established a *prima facie* case of obviousness under the three criteria set forth above. In particular, the Johnston reference fails to teach or suggest all of the limitations of the rejected claims. In the Office Action, it is incorrectly stated, in regards to Gutenson, that "the connectors connecting the coaxial cable and twisted wire pairs to the respective gateways provide distribution of signals to specific outlets 82 or 'locations' throughout the home in figure 2." As previously explained, Gutenson utilizes a topology comprising a splitter (see FIG. 2). The splitter does not allow routing to specific locations but instead splits an incoming signal to all outlets and not to any one specific location in a structure. Further, the splitter does not comprise the appropriate hardware to allow patching as does the claimed

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invention. Therefore, the rejection of claim 45 is inappropriate and should be withdrawn.

Regarding the rejection of claims 30, 42, 43, 46, 47 49, 50, and 52 under § 103, Applicant submits that based upon the arguments for the allowability of their respective independent claims, that they should each be allowable since they are dependent upon allowable claims.

III. CONCLUSION

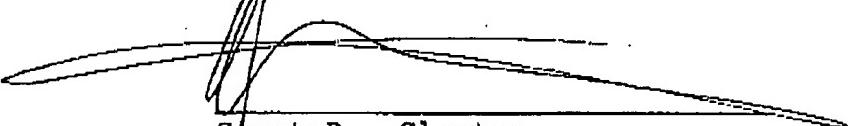
In view of the foregoing, Applicant believes that claims 25-56 are all allowable and the same is respectfully requested. If any impediment to the allowance of these claims remains after entry of

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this Amendment, and such impediment could be alleviated during a telephone interview, the Examiner is invited to initiate the same.

DATED this 13 day of October, 2003.

Respectfully submitted,


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